

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

TCI CABLEVISION OF WASHINGTON, INC.

Employer

and

Case 19-RC-13838

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 77

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time installers, advanced installers, service technicians, system technicians, advanced technicians, head end technicians and warehouse employees¹ employed by the Employer at its Aberdeen,

¹ The parties stipulated that Larry Sherman is an included warehouse employee, but that Laurie McClery, who performs certain functions in the warehouse, is an excluded office clerical employee. That stipulation is supported by the record and accepted.

Washington facilities; excluding all dispatchers, telemarketers, officer clerical employees, managerial employees, confidential employees, all other employees, independent contractors, guards and supervisors as defined in the Act.

Issue

The Employer is a national operator of cable television systems, including a facility at Aberdeen, Washington. The Union petitioned for the unit found appropriate herein, except that it seeks inclusion of the dispatchers, on the grounds that they have a strong community of interest with the “technical”² employees, or, they are at a minimum akin to plant clericals. The Employer stipulated to the appropriateness of the Union’s unit, except that it seeks the exclusion of the dispatchers, on the ground that they lack a sufficient community of interest to be included; they are office clerical employees. This was the only issue raised or apparent at the hearing. There are two dispatchers at issue.

Facts

Frank Antonovich is the Employer’s Area Director, located in Bothell, Washington. The Aberdeen General Manager is Fred Comer, who supervises Denny Lawrence, Technical Operations Manager, and Karen Leithold, Business Operations Manager. Reporting to Lawrence is Mark Lukin, Technical Supervisor, who supervises the 25 technical personnel, including the warehouse employee. Reporting to Leithold is Katy Moore, CSSR³ Supervisor, who supervises about 20 employees.⁴ These numbers do not include the two disputed dispatchers.

Insofar as relevant to this matter, the basic workflow is as follows: CSSRs receive customer orders, complaints or anything else requiring action by the technicals, by phone or from walk-ins. (This could be to terminate service, to start service, to add a channel, to repair a problem.) They generate a computer record and a work order; the latter is transmitted by network to the dispatch office. The CSSRs could also initiate an order themselves, such as to make a collection for overdue fees or, failing that, to disconnect service. The work orders are reviewed by the dispatchers,⁵ sorted by territory, arranged into a “route” sequence and placed in the appropriate field person’s locked cubicles. This is where the latter also receive their parts or

² For purpose of convenience herein, those agreed to be in the unit will be referred to generally as “technical employees” or “field employees”, without regard to whether they meet the Board definition of “technical” or whether they work exclusively in the field.

³ “CSSR” refers to Customer Support Service Representative. The Employer uses the term generically to refer to all “office” employees, from accounts payable to telephone sales to customer service.

⁴ There was neither stipulation nor litigation of the statutory supervisor status of the six aforementioned individuals. It appears that the parties are in agreement that these persons are statutory supervisors. Based on the record as a whole, I find that they all at least responsibly direct the workforce, utilizing independent judgment in doing so; accordingly, they are statutory supervisors and not eligible to vote.

⁵ Sometimes a dispatcher may catch a simple problem that could be handled by phone contact with the customer and not require the dispatch of a field person. Normally, the CSSR would have screened for that possibility in the initial contact.

other needed equipment picked from the warehouse by the warehouse employee. There may be a brief discussion about an assignment between dispatcher and technical, as well as informal banter. Dispatchers also dispense keys for access to certain regular customers, such as apartment buildings. The field personnel report to work, pick up their work orders and materials, and head out to their respective territories. As each work order is completed, the field person calls in to the dispatcher by radio and reports that fact. The dispatcher enters completion into the system, and the cycle repeats anew. When all of the technical's work for the day on the computer list, maintained by the dispatcher, is completed, he returns to the shop, turns in his truck, paperwork and any collections, and leaves. The morning departure and the evening return procedures take perhaps 30-40 minutes per day, total.

During the course of the day, the field personnel are in contact with the dispatchers repeatedly for reasons other than just to report completion of a task. The dispatcher may change assignments, such as report an outage in the field person's area that possibly requires immediate attention, or inquire as to estimated arrival time at the next stop, in order to relay the information to the CSSR who handled the customer's inquiry. The field person may seek clarification of a work order, or directions to an unfamiliar street; need information to identify which of several similar "drops" is the one requiring action; or be unable to rouse a subscriber by doorbell and need the dispatcher to phone the residence, or authorize the work to be done without an on-site collection. The dispatchers can set up an underground "locate" for an installer who needs clearance to dig, and reschedule the necessary work for a date after the locale. The technicals may be able to contact the office by phone thorough a CSSR, and sometimes they must transact business with a CSSR. However, generally the dispatcher serves as the conduit of information from the field to the office, and vice versa. The nature of the calls to the dispatcher does not involve technical problem-solving advice; rather, it is more in the nature of supplying or obtaining clerical information, or relaying information to or from others.

The technicals are generally absent from the facility for the entire day. If they have an in-town job, they may stop by to pick up parts or to use the lunchroom. This is not the norm. Otherwise the technical's contact with the office is strictly by phone or radio. It was estimated that a small portion of their contact time is with the CSSRs, the balance with the dispatchers. Each field person would have contact with the office perhaps 20 + times per day, each contact generally being very short, on average well less than a minute. Another estimate was that the dispatchers are on the radio as much as 6 hours per day, each. This would work out to between 2 and 4 hours per dispatcher, per day.⁶

The dispatcher position is treated internally as a clerical position for job classification and EEO reporting purposes. Dispatchers and half of the CSSRs receive commissions at the field rate, while other CSSRs are paid at a higher percentage. The dispatcher position is in the office job progression; one of the current dispatchers was hired from outside with prior dispatch experience, while the other was a promoted CSSR. When dispatchers are ill or on leave, or on the day one or the other does not work during the office's Monday – Saturday operation, their position is usually covered, by a CSSR, normally one particular individual, but occasionally others. The dispatcher position is not in the field job progression, even the entry level. On two occasions technicals on light duty while recovering from injury worked as a dispatcher. No dispatcher would be capable of working even a day as a field person without substantial

⁶ Twenty times X 25 employees X (1/2 or 1 minutes) = 250-500 minutes = approx. 4-8 hours/day, split between 2 dispatchers.

additional training. No current technical was previously a dispatcher, and vice versa.⁷ Another Employer estimate was a couple hours daily, each.

There was considerable testimony about the supervision of the dispatchers. The Employer testified that they are supervised by the Business Operations chain of command, while the Union's dispatcher witness said she was supervised by the technical operations chain. It is clear that the dispatcher's evaluations, performed annually in spring, in 1996 and 1997 were performed by the Business Operations Manager (BOM) and CSSR supervisor (CSSRS). The 1998 evaluations were apparently signed by the Technical Operations Manager (TOM) and the BOM, while the 1999s were signed only by the TOM.^{8 9}

The Employer testified that this was a temporary anomaly caused by the departure of the BOM in February 1999, with a replacement in April 1999, and the maternity leave of the CSSRS (December 1998 – February 1999) not long after taking on the position in July 1998. Thus, it appears that during the 1999 appraisals, the BOM position was vacant or newly filled, while the CSSRS had been in position only seven months of the appraisal year, with a three-month intervening break. Accordingly, there were no regular supervisors in position, or at least any that had sufficient contact with the employees to offer intelligent input into the appraisal process. During these periods, some or all of the formal dispatcher supervision was taken on by the TOM, and the day-to-day supervision by the Technical Supervisor.

The Employer contends that this supervisory adjustment was merely a stop-gap solution to a temporary, unavoidable problem, that the situation has now been reversed, and dispatcher supervision restored completely back to the office "side." It is conceded that there was no formal announcement of this changeback, but the record does not reflect that there ever was a formal announcement of the temporary reassignment of duties, either. There is some indication in the record to back up the Employer's assertion that things are back to "normal": note the testimony of the Union's dispatcher witness that it had been "a few months" that she had not been in the TOM's office. The record does reflect that this same witness does consider herself to be part of the technical side based on certain minor personnel interchanges she had with the technical side during her employment. It is noted that this witness¹⁰ began employment, as a dispatcher, in June, 1998, so all of her experience and impressions were gained during this influx period.¹¹ It is also clear that there is significant communication between the dispatcher and the TS concerning work situations, albeit not necessarily the dispatcher's personnel issues.

⁷ At some point in the past year, there apparently was consideration of filling the dispatcher position from the field. This idea was apparently rejected, for unstated reasons.

⁸ The record seems to reflect that the prior CSSRS left in June, 1998 and that she did not sign the one 1998 appraisal in evidence; rather, the TOM and the BOM signed. The record is silent concerning this. Perhaps the CSSRS left earlier.

⁹ The record does not reflect the importance or use, if any, of the evaluations, only that they are conducted by certain individuals.

¹⁰ At some point in the past year, there was consideration of filling the dispatcher's position from the field. This idea was rejected, for unstated reasons.

¹¹ The parties spent significant time attempting to make, or un-make, something out of the "Incident at Raymond." I attach no significance to this one-time event, other than to note that one dispatcher was told by the TOM and/or the TS that she had to work overtime that day because she was "part of the field."

There are regular all-employee meetings. In addition there are separate technical and office meetings, apparently simultaneously. There was Employer testimony that the dispatchers split attendance, so that each meeting is covered by the dispatchers. The Union's dispatcher witness testified that during her tenure, both dispatchers usually attended every technical meeting, but that her "lead" (the other dispatcher) had suggested that one of them should also attend "some" office meetings, and that the witness had attended 2-3 and then abandoned the practice unilaterally.

All new hires must be 18, a U.S. citizen, have a basic driver's license and pass a drug screen. The record indicates that a background check is required for all employees who deal on a face-to-face basis with customers, but not for other employees; however, the dispatcher witness claimed that she, although having no direct customer contact, had had a background check as well. This was not explained or challenged on the record.

DSSRs need only have the above basic, common minimum requirements for hire to an entry-level position, plus keyboard skills, a good verbal communications style and the ability to organize paperwork. Dispatchers, as noted, are promoted from within the DSSR ranks, or hired off the street. Neither promotees nor new hires becoming dispatchers need have or acquire any technical experience. The one dispatcher hired from outside had prior dispatching experience in some unspecified industry. There is no progression from dispatcher to the technical side. New-hire dispatchers have a three-day company orientation, as do all new hires. Any non-technical employees may take a brief class, at their option, sometime, where basic technical topics are taught to the non-technical. The rest of their training is on the job.

The entry-level position on the technical side is the installer. Generally, applicants are sought who have some basic formal technical schooling in electronics or related subjects, but this is not absolutely required. They must pass a physical test, unlike the office side, since they will be performing very physical work at times, such as climbing poles and ladders, crawling and lifting. New hires attend the standard three-day orientation, then three weeks of Employer technical schooling, followed by 3-4 weeks of on-the-job orientation/training, before they first work on their own. They must also pass an industry correspondence course within the first three months. There is a progression on the technical side to more responsible positions; each promotion requires a certain time in the preceding technical grade, plus passing of the relevant industry correspondence course and a practical exam.

The DSSRs use computers and other office equipment, and the telephone. (It does not appear that the dispatchers routinely use the phone.) The dispatchers' tools include the radio, a computer, various maps and street guides and certain computerized company records. The field employees use hand tools, ladders, electronic testers, a truck (some with a boom lift for pole access), pole climbing equipment and their radio. Installation employees may use shovels and related equipment for digging, as well as a gas-powered machine that cuts a slot, inserts cable and buries it, in one operation. The higher-graded technical positions use progressively more sophisticated test equipment.

All employees are "cross-trained" in all aspects of the Employer's work. Actually, the better term would be "cross-introduced" since the "training" consists of, for instance, a CSSR riding for a day with an installer, or an installer sitting next to a CSSR for a day. The purpose is

I also attach no significance to the manner in which the staff was split for a TV commercial.

to give each employee a feel for how they fit in and how everyone else contributes. It is not intended as training to perform the various positions, even in a “crunch.”

DSSRs and dispatchers wear clothing of their own choosing consistent with standard office decorum. Field personnel wear company-furnished uniforms and work boots.

Entry level field personnel are paid \$9.25 per hour; the field progression tops out at about \$23 for head end tech. The office progression, so far as can be drawn from the record, starts at an entry level of about \$7.00 and tops out at \$18.40 for the most advanced position. Dispatchers can start as low as \$9.75 and peak out at \$16.20.

There are two safety incentive programs, in which only field personnel participate (but not dispatchers, since they are classified as clerical and do not encounter similar hazards). One is Employer-wide, the other limited to the Aberdeen facility. All employees are eligible for commissions, whether selling Employer products or collecting money. There are two commission schedules; about half of the CSSRs (with significant sales responsibilities and opportunities) are compensated on a “high” percentage; all other personnel (including dispatchers) on a “low” schedule. All field personnel are on a rotating on-call schedule; dispatchers are not. All employees work the same basic sets of “regular” schedules. All office personnel, including dispatchers, have access to and regularly use the Employer’s computer (“CSG”) system and have password access. All others have no access to the system.

All employees work out of a single building. The CSSR area is at the south-west end of the building, adjacent to various managerial offices and operational areas. Dispatchers are located centrally in the south half of the building (which is broken up into rooms), adjacent to Engineering, the lunch room, rest rooms and supervisory offices. The north half of the building is used for the warehouse and parking; presumably the trucks are stored there overnight, and perhaps employees park there during the day. The field personnel have no “office” or “room.” They may spend some personal time in the lunchroom before or after work, depending on their personal inclinations. They may transact some brief business with the dispatchers at the latter’s office, at the beginning and end of the day. Field personnel receive their equipment and parts from their “cubbies”, which are in the warehouse wall; (the dividing line between the north and south halves); they are filled by the warehouse from the warehouse side, and accessed by individuals’ keys, from the parking side.

Parties’ Positions

The Petitioner contends that the dispatchers share a community of interest with the technical personnel, such that it is not inappropriate to include them in the unit. They point most heavily to the steady, heavy radio contact between the dispatchers and the technicals throughout the day, as well as the additional contact at the start and end of shift. They would also argue that the dispatchers are supervised by the technical side of the Employer’s operation.

The Employer contends that the dispatchers have little community of interest with the technical personnel; rather, their community of interest lies with the office side of the business. They point to differing working conditions, the lack of common supervision, and argue that the admitted regular radio contact is not as strong as claimed by the Union, and in any event not enough to make it appropriate to include the dispatchers.

Conclusions

At the risk of stating the obvious, the Board permits a labor organization to pick its unit so long as the unit is appropriate. In any given situation, there may be more than one appropriate unit. The unit selected need not be the ideal unit, only *an* appropriate unit. Absent circumstances not involved herein, if the petitioner selects *an* appropriate unit, that will be the unit in which the election is conducted.

In the instant matter, the parties have stipulated to the appropriateness of a unit of listed classifications, all of which are “field” or “technical” employees. The only issue on which they differ is whether it is appropriate to include dispatchers with those other classifications.

In determining whether the inclusion of the dispatchers is appropriate, we must look to the community of interest between the concededly-included grouping and the contested classification. Community of interest includes all of the strands that inter-connect the two groups and all that separate or distinguish them, i.e., the totality of circumstances. This includes similarity (or lack thereof) of work, compensation, benefits, hours, skills, training; administrative separation, including commonality of supervision; integration of work operations and degree of contact between the groups.

In the instant matter, there is a dispute about a highly important aspect, over which there usually is no disagreement in a representation hearing, i.e., commonality of supervision. The Union contends that the dispatchers are supervised by the technical side supervisors, while the Employer contends that while they were to some degree for a time, they no longer are. I cannot make credibility assessments in this matter, but I can look to what is admitted, what is undisputed, and what has not been disproved. In the instant matter, it seems clear, first, that historically the dispatchers have been supervised by the clerical side. Second, starting in about July 1998 supervision moved to(wards) the technical side at a time when there gaps in the presence of the Business Operations Manager and/or the CSSR Supervisor, due to apparently unanticipated severance and/or medical leave. It is also clear that the supervisory gaps that prompted the change have ended with the now-continuous presence of a permanent BOM and CSSRS.

The shift back has been gradual and unannounced, but from the record it appears to be about how the shift happened in the first place: there is no evidence of a general announcement that there would be a switch in supervision, temporary or otherwise. It appears that it more or less “happened” out of necessity. In fairness, it must be said that at least one dispatcher feels that she is still supervised by the technical side, but even her own testimony suggests a recent change back, and her tenure roughly coincides with the chain of supervisory hiatuses. I also note that in the instant context the dispatchers appear to work *with* the technical supervisors, even though they are not “supervised” by them in a formal or statutory sense; the dispatchers serve as the usual contact point between the field and the facility, and the field personnel report to the technical supervisors. (The degree of this technical supervisor/dispatcher contact is not fully developed in the records.)

I conclude that the dispatchers are supervised in the formal sense by the office side. This is in keeping with past practice, as well as with the other indicia that the dispatchers administratively “belong” to the office side. Internally they are classified as “clerical” or “office”, they are in the office job progression, and all substitutes for vacations and days off are filled by the office side.

Besides separate supervision and job progression, there are a myriad of factors that set the dispatchers apart from the technical employees: The former work, with rare exception, in the office all day, while the technicals leave the office, every day, for almost all of the day. The former work in the comfort of the office, while the latter regularly work out in the weather, under buildings or in other adverse conditions. The dispatchers have no direct customer contact, while the technicals have face-to-face customer contact routinely every day. Technical employees must have technical training, they have correspondence classes and tests; there is nothing comparable for dispatchers. Technicals perform vigorous physical work, climbing poles, digging holes, crawling under buildings; dispatchers sit in a chair at a desk. Technicals drive trucks and use various hand tools, technical equipment and power tools; dispatchers never use any of this equipment, only a computer and a radio.

The clerical pay range is lower and narrower than the technical employees'; dispatcher pay tops out at about 65% of the top technical pay. Dispatchers don't move into the technical realm, or technical into dispatch (or clerical) territory.¹² Field personnel have their own safety programs.¹³ Dispatchers and clerical employees all use the CSG computer system, while the technicals have no such access.

The dispatchers and technical staff are all in the "low" commission structure, because they have little opportunity to earn commissions. However, the same can be said for about half of the CSSRs. The dispatchers have gone on familiarization rides with the technicians, but so have the CSSRs. Dispatchers work in an area that is physically separated from the CSSRs, but their work area is not physically closer to the field's primary area at the facility, i.e., the parking area and "cubby" distribution point. Moreover, the dispatchers are directly attached to the CSSRs via computer; that connection can be said to substitute for the lack of immediate proximity; or, put another way, the lack of proximity does not mean that they do not interact with each other.

The factors that auger most heavily for a unit of technicals and dispatchers is the integration of operations, primarily the routine, steady radio contact. The record contains strongly varying estimates of the amount of time a dispatcher is "on the radio", either transmitting or receiving, daily. Management suggested an hour or two, while one Union witness left little time for breathing or bodily necessities, with an estimate as high as 7+ hours daily. Suffice it to say the reality is likely in between somewhere, but substantial. In any event, it is clear that the dispatchers are the conduit between the field and the facility. The transmissions are quite brief generally, but they recur throughout the day, a minimum of once per assignment. The contacts can be longer if maps or records must be consulted. However, there is also regular contact, albeit on a lesser scale, between the dispatchers and the CSSRs; it was estimated by a Union witness that "25% of the time", their contacts were with CSSRs, 75% with the dispatchers. There is also regular, but much less significant, direct field/CSSR contact.

There is an integration of operations between the dispatchers, in that they are the most common nexus between the field and the facility; they funnel the messages in and out and help with varying kinds of non-technical assistance. Nevertheless, their assistance is of an

¹² Except that on two occasions technicals were given light duty as dispatchers.

¹³ Note that they alone encounter a set of unique hazards, such as driving, in working at heights, or in climbing poles (which typically support live electric utility lines in addition to TV cable).

attenuated or distinguishable nature, since they provide no technical assistance; they do not fix anything, nor do they provide guidance on how to repair a problem or isolate a cause.¹⁴ Moreover, they do not regularly gather and distribute parts and materials; this is the function of the warehouse person, included in the unit.

In the end, the Union's case is basically limited to the regular, steady phone interactions and the limited face-to-face contact at the start and end of the shift. As to the latter, the assignments are sorted and routed in advance and placed into the respective cubbies. There is no need that the two groups physically interface to accomplish that purpose (except to obtain keys); there is some on-site interchange, but seemingly as much chatter as work-required discussion.

A review of Board cases reveals little of help in the dispatcher area. The Union cited no cases, while the Employer turned up the same three (fairly useless) cases as did the undersigned's computer search. In *Caribbean Communications Corp.*, 309 NLRB 712 (1992), the dispatcher was found to be included in a customer service unit, but the Hearing Officer's report was not printed and the Board did not discuss the rationale for inclusion. It appears the issue arose because the position had not been mentioned in an ambiguous stipulation or election direction, and it was necessary to determine the dispatcher's community of interest with the unit. In *Cablevision Systems Development Company*, 251 NLRB 1319 (1980), the Board adopted without comment an ALJ's conclusion that the dispatchers were excluded from the technician/field unit. This was a contested unit determination in an unfair labor practice case; the union apparently sought their exclusion, consistent with the prior unit. The ALJ found that the dispatchers obtained the written work orders from one building and transmitted them out by radio to the field technicals from another. The dispatchers, unlike the field personnel, wore no uniform, rarely went into the field, performed no work with "the tools" and had no contact with the field personnel except by phone or radio.¹⁵ The decision also excluded several other office-like personnel with field-related duties on the same rationale. *R.L. Stott Company*, 183 NLRB 884 (1970), involved dispatchers at a heating oil distributor/heating and air conditioning contractor. The dispatcher was excluded by the Board, in line with the Union's requested "field" unit, even though he was partially supervised by the service manager, because he lacked a community of interest. No further facts or explanation were provided. As can be seen, these cases provide little guidance in deciding the instant case, where the issue is exclusion of the classification over the petitioner's objection. I must, therefore, rely on more general principles.

Based on the foregoing and the record as a whole, I find and conclude that the dispatchers share an insufficient community of interest with the balance of the unit to include them. While there is clear and undisputed regular, repeated daily *radio*¹⁶ contact between the dispatchers and the field, and some limited, work-related, face-to-face contact at shift beginning and end, I find that this is insufficient to override the long list of distinguishing characteristics

¹⁴ Sometimes a dispatcher will ask a technical for advice as to whether a customer complaint could possibly be resolved over the phone by a dispatcher, instead of having a technical make an appearance at the customer's site.

¹⁵ It is unclear why there was no contact, since it does appear that the drivers came and went in trucks from a facility and received their supplies at the same facility; perhaps the dispatchers worked out of a second facility.

¹⁶ The *Cablevision Systems* case would indicate that radio contact is significantly distinguishable from face-to-face contact, and does not do much to create a community of interest.

described above: Non-physical, inside, clerical/computer work compared with physical, technically-oriented, outside work; clearly separate training, job progressions, supervision and substitution, and non-comparable work hazards. While there is functional integration between the dispatchers and the field, the same can be said, albeit to a lesser degree, concerning the DSSRs, who are also in regular contact, by phone, with the field, and in significantly more contact with the dispatcher.¹⁷ Accordingly, I shall direct an election in the agreed-upon unit, excluding the dispatchers.

There are approximately 25 employees in the unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 77.

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision 4 copies of an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters must be filed with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Seattle Regional Office, 2948 Jackson Federal Building, 915 Second Avenue, Seattle, Washington, on or before August 27, 1999. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

¹⁷ I have also considered the possibility that the dispatchers are akin to plant clericals and includable on that basis. However, plant clericals arise in a production context, with regular contact, face-to-face, with production personnel out in the plant. Here, the contact is primarily by radio; their work situs is not the functional equivalent of a clearly delineated production floor, or even in the warehouse/garage area (except when distributing the work orders into the cubbies), but in the midst of the "office" part of the facility; the "production" function takes place primarily in the field; and the dispatchers are not supervised by "production" supervisors.

NOTICE POSTING OBLIGATIONS

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by September 3, 1999.

DATED at Seattle, Washington, this 20th day of August, 1999.

/s/ PAUL EGGERT

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